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# **REPORT OF THE JOINT SPECIAL COMMITTEE TO STUDY THE DEPARTMENT OF TRANSPORTATION**



**REPORT TO THE  
1987 GENERAL ASSEMBLY  
OF NORTH CAROLINA**

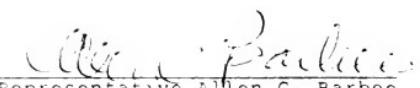


December 3, 1986

TO THE MEMBERS OF THE 1987 GENERAL ASSEMBLY

The Joint Special Committee to Study the Department of Transportation submits herewith its proceedings, findings and recommendations on the efforts at improving efficiency and reducing expenditures in the Department of Transportation.

  
Senator Robert D. Warren

  
Representative Allen C. Barbee

Cochairmen  
Joint Special Committee  
to Study the Department of Transportation



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Joint Special Committee  
to Study the Department of Transportation

Senators

Robert D. Warren, Co-Chairman  
Marc Basnight  
Ollie Harris  
William D. Goldston, Jr.  
David Parnell  
Paul Smith  
Joseph Thomas

Representatives

Allen C. Batbee, Co-Chairman  
Charles Beall  
John W. Brown  
David W. Bumgardner  
Howard Chapin  
Marie Colton  
Jeff Enloe, Jr.

Legislative Background

The Joint Special Committee to Study the Department of Transportation was created in Resolution 60 of the 1981 Session Laws. The 1983 Session of the General Assembly passed Resolution 49 which authorized the continuation of the Special Committee.

As a direct result of the work of the Committee the Department of Transportation has saved or avoided spending over \$45 million by carrying out the statutory directives from the General Assembly. The Special Committee's work has led to improved communications and understanding between the General Assembly and the Department of Transportation.

The 1985 General Assembly again authorized this Special Committee in Chapter 792, Sec. 16.1 to continue its work until January 1, 1987.

### Committee Proceedings

The Joint Special Committee to Study the Department of Transportation held its first meeting on November 5, 1985 and heard an explanation of Highway Construction funding by Secretary Jim Harrington. Deputy Secretary Billy Rose gave the Committee a detailed briefing on the changes in the Transportation Improvement Program (1986-1995). Secretary Harrington also discussed current operating transportation budget issues and cost savings programs.

The Committee held its next meeting on December 3, 1985 and Bill Marley, Manager of Highway Design with the Department of Transportation gave a very detailed report on bidding and negotiating bridge design work. Bob Adam, Maintenance Manager spoke on the proposed Contract Mowing of Highway Right-of-Way Areas. Ken Levenbrook, Staff Attorney, made his report on the Transportation problems at Public Facilities. Other reports received were (1) Dredging Operations Performed for Other State Agencies, (2) Status Report of all DOT Capital Improvements authorized by the 1985 General Assembly, (3) Bridge Program and (4) Backlog of title work at the Division of Motor Vehicles.

The Committee met next on January 22, 1986 and received Subcommittee reports on general aviation at RDU Airport, Trent River railroad drawbridge and problems of automobile registration turnaround time at the Division of Motor Vehicles. Representative Robert Hunter discussed the merits of right-of-way purchases. He was concerned that cities and urban counties would become more involved in road construction and would get a larger share of state funds and the rural areas might be left behind. The Committee received reports on (1) the DOT's Management Assessment Unit, (2) Funds spent for outside Consultant studies, (3) Special Report on cost Savings efforts related to contract mowing, rest area cleaning and bridge tending, (4) Fresh water run-off as it applies to bridges and roadways, (5) Tentative bid letting schedule for contract resurfacing projects, and (6) Special report on the "Safety Inspection Monitoring Fund".

The Committee met next on March 26, 1986 and toured the Division of Motor Vehicles facilities. DMV officials briefed the Committee on vehicle inspections at weigh stations and issues relating to insurance and license plate expirations. Commissioner Hiatt appealed to the Committee to take proper action on behalf of retaining the Motor Carriers Safety Unit in the Division of Motor Vehicles, and said it would be in the best interest of the trucking industry.

Frank Coleman, Chief Engineer, gave the Committee a status report on the Ferry Division and a report on the funds appropriated for the Rest Area at the Cedar Island Terminal and the Ocracoke Island Ferry Facility.

Dr. Patricia Waller with the North Carolina Safety Research Center reported on accidents involving twin tractor-trailers in North Carolina.

Jack Murdock, Secondary Roads Officer, reported on the 1985/86 allocations of funds appropriated for small urban construction projects. He indicated that the intent of the small urban program was to handle projects in small towns that could never qualify in the statewide program.

The Department of Transportation provided the Committee copies of the Report of the Transportation Task Force and urged the Committee to study the report and support the recommendations. The Task Force issued the following policy statements:

1. Transportation projects should be financed on the "User Pay" principle.
2. Maintenance of current programs and existing facilities must be the State's top Highway priority.
3. The Highway Fund must be given some protection from inflation.
4. Acceleration of programs to address urban needs must not be at the expense of other programs: Equitable distribution of funds should be achieved.
5. Overall responsibility for Highways should remain with the State Department of Transportation.
6. Participation by local governments in urban road projects must be increased, especially in the area of right-of-way acquisition, and should vary to reflect local benefits received.
7. Private sector participation should be increased in urban road projects.
8. The Transportation Improvement Program should continue to address the most critical urban needs with local government involvement targeted to right-of-way acquisition.
9. Non-construction approaches to alleviate Highway needs must be given a high priority.

The Committee next met on May 12, 1986. Ms. Judi Wallace, former Chairperson of the North Carolina Bicycle Committee reported on the bicycle and bikeway program. She indicated the program was nationally recognized for its outstanding work and other states have sought to follow North Carolina's example.

Dr. Patricia Waller gave a follow-up report on accidents involving twin tractor-trailers in North Carolina.

Raleigh's Mayor, Avery Upchurch, was recognized and spoke briefly on proposed legislation to improve road construction around the urban areas.

Bob Adams, Chief Maintenance Engineer, reviewed the contract resurfacing program and the use of recycled asphalt.

DOT presented a report on the accomplishments of the new Management Assessment Unit.

W. P. Garriss, Controller, gave a report on the status of the expansion funds appropriated to DOT by the 1985 General Assembly.

Secretary Harrington gave the Committee an overview of DOT's 1986-87 budget proposal and needed special legislation.

David King, Director of Public Transportation presented his report on public transportation General Fund needs.

The Committee next met on October 1, 1986 and received a staff report on the actions by the 1986 Session of the General Assembly relating to the Department of Transportation. The Department of Transportation then furnished the following reports: (1) Report of action taken to implement appropriations by the 1986 Session and Federal Highway Aid Allocations for North Carolina, (2) Report on Asphalt Pavement Recycling Program and estimated savings, (3) Progress report on Extension of I-40 from Benson to Wilmington, (4) Report on contracts on projects costing less than \$150,000 let without formal competitive bidding, (5) Special report on Toll roads, (6) Priority system for paving rural roads, (7) Status report on the bridge replacement and renovation program, (8) Current report on the Motor Carriers Safety Regulation Unit and the Motor Carriers Safety Grant, (9) Special report on turn-a-round time required for new and used vehicle titles, (10) Report on Title Security at DMV, (11) Report on the Staggered Registration Program authorized by the 1986 Session of the General Assembly, and (12) Report on the need for 50-mph speed limit zones.

The Committee was requested by the Legislative Research Commission to review Part I, Part VII through XIII, and Part XV of SB 866, The Future Roads Act. Ken Levenbook, Staff Attorney, summarized and reviewed with the Committee those parts of SB 866.

The Committee met next on November 6, 1986 and reviewed the current status of federal-aid funding. Secretary Harrington stated that the federal program is uncertain at this time and if a federal Highway bill has not passed by the time the Legislature convenes in February, 1987 a joint resolution urging Congress to act might be considered.

Secretary Harrington Reviewed the Governor's "Roads to the Future Plan". The Secretary said that "Roads to the Future" breaks down into two elements: the need for additional revenue for construction and maintenance of the State system; and "right-of-way" legislation, a means to allow for more adequate protection of future highway land. The plan proposes to establish transportation continuing appropriations accounts - the Highway Account, Aviation Account, Rail Account and Public Transportation Account. Secretary Harrington presented proposed legislation for continuing appropriations entitled "Future Roads Act, Part I". The Secretary presented "Future Roads Act, Part II", a portion of the Governor's highway proposal which would provide a system of continuing appropriations for programming purposes. The Secretary proposed that municipalities be allowed to buy right-of-way outside city limits and that counties be able to contribute money to those right-of-way purchases. He said that the State could save \$60 million annually by the year 2000 by purchasing right-of-way early. (There was concern among Members of the Committee that the right-of-way purchase plan would price rural areas out of the highway market.) The Secretary said the Statewide issue needs to be solved before the local issue can be addressed.

Mayor Avery C. Upchurch, Raleigh, spoke on "Roads to the Future, Part II" and urged the Committee to adopt a proposal to help the city meet its future road needs. Mayor Upchurch recommended the proposal to give counties authority to help fund road construction or right-of-way purchases whereby counties would be authorized to help fund projects that were undertaken by municipalities within a particular county.

Mr. Larry Goode, Transportation Planning Engineer, Division of Highways, discussed the proposed right-of-way legislation ("Roads to the Future Act, Part II"). Mr. Goode showed slides and gave an overview of the areas covered by the proposed statutory changes.

Mr. Bill McNeil, President of the North Carolina Chapter of the American Planning Association, spoke briefly on the "needs and solutions of right-of-way legislation. There is public cost as well as human cost on the "needs" side, he said, and mentioned cases of human costs when rights-of-way have to go through a person's property. He said the costs to save these happenings would save millions. Authority, uniform use of techniques and training are key elements, he said. Mr. McNeil offered support to the Committee and Secretary Harrington in working on these matters.

Ms. Patrice Rosser, speaking on behalf of the North Carolina League of Municipalities and the North Carolina Association of County Commissioners, gave support for authorizing municipal governments to acquire rights-of-way outside their corporate limits; and, authorizing, in limited circumstances, a county to help a city fund the acquisition of the right-of-way.

Representative Dan Lilley, Chairman of the Aeronautics Council, spoke in support of the concept of aviation transportation. He said the Council is going to request the Secretary of Transportation to come up with a two to three year plan on aviation, as it is hard when it is not known what the income would be. He said he could easily see requests from \$8 to \$10 million in 1988, and the appropriation is \$3.5 million. He expressed thanks for this appropriation and said he would like to see the General Assembly adopt the continuing appropriation for aviation.

The Committee met next on December 3, 1986 and discussed the procedures and merits of the North Carolina State Employee Suggestion System. Secretary Harrington requested the Committee to recommend to the 1987 Session of the General Assembly a proposed joint resolution memorializing (urging) Congress to take immediate action on highway and transit authorizations.

The Secretary also requested the Committee to endorse a proposed bill to increase State motor fuel taxes if the current level of federal gas tax is reduced. He indicated that the bill is a stand-by legislation in the event the federal motor fuel tax is decreased from its present level by action or inaction of the Congress, the State motor fuel tax would increase automatically by the same amount of tax per gallon by which the federal tax per gallon existed on January 1, 1987.

## Findings

On the matter referred to the Committee by the Legislative Research Commission regarding Part I, Part VII through XIII, and Part XV of S.B. 866, The Future Roads Act, the findings are as follows:

### Summary of Proposed Future Roads Act

#### I. PROPOSED TRANSPORTATION CONTINUING APPROPRIATIONS PROGRAM HIGHWAY, AVIATION, RAIL AND PUBLIC TRANSPORTATION

##### Introduction

The objective of the proposed Program is to establish a transportation continuing appropriation from which a more stable and predictable source of revenue can be achieved for transportation improvement purposes. The Transportation Continuing Appropriations will have four components or accounts. The Highway Account will provide a method for the State and local units of government to provide or accelerate needed highway construction projects. The Rail, Aviation, and Public Transportation accounts will provide a more stable and predictable source of revenue, allowing for long-range planning and programming of projects.

##### Highway Account

The following basic principles will form the framework for the proposed Highway portion of the Program:

- \* the Highway Fund will continue to function as the primary source of funds for matching Federal Funds for construction of new roads and highways, normal maintenance and operation, and the cost of administration.
- \* the Highway Account of the proposed Transportation Continuing Appropriations will provide:
  - supplemental funding to the Department of Transportation for the construction of highway projects in order to correct any inequities in distribution of construction funds from the federal-aid construction program and to maintain a uniform required level of construction.
  - supplemental funding to the Department of Transportation for right-of-way acquisition.

- on a revolving or reimbursement basis, loans or advances to units of local government to supplement the State construction of projects and the acquisition of right-of-way by the Department of Transportation.
- a supplemental source of payment of debt service on the State's Highway Bonds.

The Highway Account would be funded from the transfer of 7% of the annual gross revenue of the Highway Fund.

#### Aviation Account

The following basic principles will form the framework for the proposed Aviation portion of the program:

- \* the Aviation Account will provide the sole source of State funding for aviation purposes.
- \* the Aviation Account will provide a stable and predictable funding source which will replace annual appropriations from the General Fund.

It is proposed that a funding amount equal to the greater of \$3,500,000 or 100% of the State's total sales and use taxes paid by the aviation industry in North Carolina be transferred each year from the General Fund to the Aviation Account.

#### Rail Account

The following basic principles will form the framework for the proposed Rail portion of the program:

- \* the Rail Account will provide the sole source of the State funding for rail purposes.
- \* the Rail Account will provide a stable and predictable funding source which will replace annual appropriations from the General Fund.
- \* the Rail Account will help to compensate for the reduction in the amount of Federal Funds heretofore provided to railroads for branchline service.

It is proposed that a funding amount equal to the greater of \$200,000 or 100% of the annual dividends from the North Carolina Railroad stock be transferred each year from the General Fund to the Rail Account.

### Public Transportation Account

The following basic principles will form the framework for the proposed Public Transportation portion of the program:

- \* the Public Transportation Account will provide the sole source of State funding for public transportation purposes.
- \* the Public Transportation Account will provide a stable and predictable funding source which will replace annual appropriations from the General Fund.

It is proposed that a funding amount equal to the greater of \$1,600,000 or the proceeds of an allocation of 50 cents from each annual motor vehicle registration renewal, be transferred each year to the Public Transportation Account.

### II. Additional County/City Authority

Current Law (Counties) - Prohibits county financing of ROW or construction of highways.

Proposed Law - Authorizes counties to appropriate and expend property tax revenues, to borrow money, and to issue funds in cooperation with a municipality. This proposal has been coordinated with and has the support of N.C. Association of County Commissioners.

Current Law (Cities) - Generally does not provide for municipalities to expend funds outside their corporate limits.

Proposed Law - Authorizes municipalities to expend funds for the purpose of acquiring right-of-way, constructing or improving streets and highways outside corporate limits, and to acquire by dedication, purchase or eminent domain an easement or fee simple title to necessary rights of way. This proposal has been coordinated with and has the support of the N.C. League of Municipalities.

### III. Transfer of Development Rights

Current Law - Voluntary on-site transfer of development rights is permissible under existing zoning law but not explicit.

Proposed Law - Allows local zoning authorities to transfer development rights such as density and floor area ratios on-site and off-site. Off-site transfers are needed because the residual property left after removal of needed right-of-way may be insufficient to support

or market the transferred development rights. This concept has been used for a variety of preservation purposes such as historic preservation, right-of-way preservation, watershed protection, scenic vista protection and prime agricultural land preservation.

IV. Driveway Permit Processes

Current Law - No State authority to require safety improvements currently exists.

Proposed Law - Gives the Department of Transportation authority to require driveway applicants to provide needed safety improvements (such as turning lanes, speed change lanes, etc.) to existing roadways into which the driveway is proposed.

V. Official Roadway Corridor Map - With Property Tax Relief

Current Law - Local Official Map Acts exist for Wilson, Session Laws 1971, Chapter 7; Charlotte, Session Law 1967, Chapter 719; Winston-Salem/Forsyth Session Law 1947, Chapter 667 #11; and Durham, Pvt. Laws 1927, Chapter 156.

Proposed Law - Official Map reserves roadway right-of-way corridors for a specified period of time. During this period, buildings and permanent improvements and subdivisions are either prevented or discounted in the valuation process when right-of-way is acquired. For over twenty years, a majority of the states have had an official map act. North Carolina does not.

The proposed legislation:

- (a) allows protection of roadway corridors without first requiring detailed engineering designs for these protected corridors patterned after the Florida law;
- (b) requires protected corridors to appear on the Thoroughfare Plan and to be in either the state's transportation improvement plan or on a local capital improvements plan of similar duration;
- (c) reserves protected corridors for a period of no more than three years, beginning with submittal of a formal application for development by an affected property owner;
- (d) allows the state or local governments to establish protected corridors;

- (e) contains procedural safeguards such as a public hearing prior to adoption of any official map act, recording of the official map with the county register of deeds, an appeal procedure to assist property owners from undue hardships, and protection of vested rights;
- (f) provides for both local property tax relief on lands reserved for rights-of-way and authorizes a state income tax deduction equal to the local property tax relieved.

**VI. Controlling Withdrawal of Previously Dedicated Right-of-Way**

Current Law - G.S. 136-96. "Any road or street right-of-way dedicated but not used within 15 years after dedication is automatically deemed to be abandoned".

Proposed Law - Amends existing G.S. 136-96 to require that a municipality formally approve any abandonment of dedicated rights of way especially if that right-of-way was a part of a future street on an adopted coordinated street system.

**VII. Early Condemnation Authority**

Current Law - G.S. 40A-3(6)(1) provides for condemnation of right-of-way for programmed projects.

Proposed Law - Amends the existing statute to allow condemnation of all future rights-of-way which are put on the coordinated street system required in G.S. 136-66.2.

**VIII. Local Roadway Protection**

Current Law - G.S. 169A-306 and G.S. 153A-331 provides for setback regulations as a part of local zoning ordinances.

Proposed Law - Gives local governments authority to apply setback regulations to buildings and other permanent facilities. These setback lines will be measured from the center line of the street or from the right-of-way line. This section will also allow local governments the right to collect funds from a developer based on a formula that includes trip generation and the right to spend these funds in and around this development.

**IX. DOT Participation in Private Contracts**

Current Law - Expires after this year.

Proposed Law - This section allows the Department of Transportation to continue to participate in private contracts for highway construction.

**X. State Funded Roads**

Current Law - Expires after this year.

Proposed Law - Allows the Department of Transportation to continue State Construction Programs which will utilize all State funds on certain selected projects.

On other matters the Committee finds:

The Secretary of Transportation indicated that the Surface Transportation Assistance Act of 1982 expired on September 30, 1986 and new federal-aid highway program legislation was not enacted by the 99th Congress. He stated that the federal-aid highway program and the public transportation discretionary grant program are being severely disrupted by the failure of Congress to enact a new surface transportation authorization bill to replace the Surface Transportation Assistance Act of 1982.

The Secretary states that due to inaction by the 99th Congress and if not corrected by the 100th Congress early in will result in extensive curtailment of highway and transit contracting causing severe economic hardship on those employed in North Carolina's highway construction industry and will have long term negative effects on vitally needed public and private economic development initiatives.

The Surface Transportation Assistance Act of 1982 contained a five cents per gallon federal tax on motor fuels. As stated above, this Act expired September 30, 1986. The Secretary of Transportation stated that North Carolina needs stand-by legislation in the event the federal motor fuel tax is decreased from its present level by action or inaction of Congress so that the State motor fuel tax should be increased automatically by the same amount of tax per gallon by which the federal tax per gallon existed on January 1, 1987.

Recommendations

After careful consideration of all the information presented, the Committee makes the following recommendations:

1. The General Assembly should consider legislation to provide transportation continuing appropriations from which a more stable and predictable source of revenue could be achieved for transportation improvement purposes. The continuing appropriations has four components, (1) Highway Account, (2) Rail Account, (3) Aviation Account, and (4) Public Transportation Account. These accounts may provide a more stable and predictable source of revenue allowing for long-range planning and programming of projects. The text for legislation to implement this item is in Appendix A.
2. The General Assembly should consider legislation that could reduce the long-term cost of the Highway program and promote Highway Safety. The text for legislation to implement these items are in Appendix B through Appendix I.
3. The General Assembly should consider issuing a Joint Resolution urging the 100th Congress to take immediate action on the Highway and Transit Authorizations. The text for this resolution is shown in Appendix J.
4. The General Assembly should consider legislation that would provide an increase in the State motor fuel tax if there is a reduction in the present federal gas tax. The text for this legislation is contained in Appendix K.

87-LK-22

S: DEPARTMENT OF TRANSPORTATION  
STUDY COMMITTEE  
ST: FUTURE ROADS ACT-PART I  
PUBLIC

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR CONTINUING APPROPRIATIONS FROM THE HIGHWAY FUND FOR HIGHWAY, AVIATION, RAILROAD, AND PUBLIC TRANSPORTATION PURPOSES.

The General Assembly of North Carolina enacts:

Section 1. Article 1 of Chapter 136 of the General Statutes is amended by adding the following new sections:

"<136-16.2. Continuing highway appropriations.--There is annually appropriated, beginning with the 1987-88 fiscal year, from the Highway Fund to the Department of Transportation for highway purposes a sum equal to seven percent (7%) of the revenue credited to the Highway Fund during the current fiscal year and derived from the net proceeds after refunds of the taxes collected pursuant to Articles 36, 36A and 36B of Chapter 105 of the General Statutes and the Motor Vehicle registration fees and other revenues collected pursuant to Chapter 20 of the General Statutes.

"<136-16.3. Purposes for the continuing Highway appropriations.--The continuing highway appropriations authorized

by G.S. 136-16.2 may be used by the Department of Transportation for the following purposes:

- (1) Supplemental funding to provide for highway construction, reconstruction, and rehabilitation for State primary, secondary, and urban road systems, to correct inequities in the distribution of funds from federal-aid construction programs, to supplement declining federal-aid construction programs as a result of Gramm-Rudman-Hollings, to match federal-aid construction funds, and to maintain a uniform pace of highway construction. Supplemental funding shall not be provided for any project for which the benefits analysis is less than the lowest benefits analysis at the time assigned by the Department of Transportation to a current Transportation Improvement Project in its comparable rural or urban functional class. In determining the benefits analysis, the Department of Transportation may consider the factors it determines to be relevant in the application of State funding to highway construction and maintenance programs, including, but not limited to, cost, economic benefits, probable economic development potential, environmental impact, and design year traffic flow potential.

- (2) Supplemental funding for the acquisition of highway rights-of-way, including acquisitions in advance of regular project approval.
- (3) Payment of all or any portion of the interest on or the principal of bonds of the State issued for road and highway purposes.
- (4) Loans to cities for highway construction, reconstruction, and rehabilitation projects and the acquisition of rights-of-way. Any loans shall be made on the basis of a sound credit policy in order to assure, to the extent possible, the repayment of such loans by the borrower. Loans made under this section shall not be secured by a pledge of the borrower's faith and credit as defined in Section 4 of Article V of the North Carolina Constitution. Powell Bill (G.S. 136-41.1) funds allocated but not distributed to any borrower may be applied to any overdue loan balance.

"<136-16.4. Procedures for disbursing continuing highway appropriations to municipalities.--The Department of Transportation shall establish procedures governing the application for and administration of disbursements of continuing highway appropriations to municipalities, including but not limited to, the forms, terms, and conditions of the disbursements. In the case of loans, the Department shall establish repayment

obligations including the payment of interest, if any. The Local Government Commission shall advise the Department of Transportation of the financial capability of the applicant to repay the loans.

"<136-16.5. Continuing aviation appropriations.--There is annually appropriated, beginning with the 1987-88 fiscal year, to the Department of Transportation for aviation purposes a sum equal to the revenue derived from the State's sales and use taxes (exclusive of refunds, penalties, and interest) collected and received on sales made on and after the first day of the fiscal year representing sales and use taxes on aircraft, aircraft parts, accessories, lubricants and aviation fuel. If the appropriation amounts to less than three million five hundred thousand dollars (\$3,500,000) in a fiscal year, the Treasurer shall, on June 30th of that fiscal year, transfer from the General Fund and credit to the Department of Transportation the funds required to bring the appropriations for aviation purposes to three million five hundred thousand dollars (\$3,500,000).

"<136-16.6. Purposes for continuing aviation appropriations.--Continuing aviation appropriations authorized by G.S. 136-16.5 shall be used in accordance with and for the purposes provided in Article 7 of Chapter 63 of the General Statutes.

"<136-16.7. Continuing rail appropriations.--There is annually appropriated, beginning with the 1987-88 fiscal year, from the General Fund to the Department of Transportation for rail purposes the greater of two hundred thousand dollars (\$200,000) or one hundred percent (100%) of the annual dividends received (less any used pursuant to Section 13.18 of Chapter 792, Session Laws of 1985) by the State from its ownership of stock in the North Carolina Railroad Company and the Atlantic and North Carolina Railroad Company.

"<136-16.8. Purposes for continuing rail appropriations.--The continuing rail appropriation authorized by G.S. 136-16.7 shall be used in accordance with and for the purposes provided in Article 2D of Chapter 136 of the General Statutes.

"<136-16.9. Continuing appropriations for public transportation.--There is annually appropriated, beginning with the 1987-88 fiscal year, from the Highway Fund to the Department of Transportation for public transportation purposes the greater of one million six hundred thousand dollars (\$1,600,000) or the amount derived by multiplying the number of passenger vehicles registered on the first day of each fiscal year by fifty cents (\$.50).

"<136-16.10. Purposes for continuing public transportation appropriations.--The continuing public transportation appropriations authorized by G.S. 136-16.9 shall be used in accordance with and for the purposes provided in Article 2B of Chapter 136 of the General Statutes."

Section 2. This act shall become effective July 1, 1987.

87-LK-23  
S: DEPARTMENT OF TRANSPORTATION  
STUDY COMMITTEE  
ST: FUTURE ROADS ACT-PART II  
PUBLIC

A BILL TO BE ENTITLED  
AN ACT TO GRANT CITIES AND COUNTIES ADDITIONAL POWERS WITH RESPECT  
TO ACQUISITION OF RIGHTS-OF-WAY.

Section 1. Chapter 136 of the General Statutes is amended by adding a new section to read:

"<136-66.8. City right-of-way power.--In order for a city to acquire rights-of-way outside its corporate limits for street or sidewalk construction and to construct the streets or sidewalks or for a county to jointly fund with the City that acquisition and construction, the comprehensive plan provided for in G.S. 136-66.2 must also be adopted by the Board of County Commissioners of the county where the land or interest in the land to be acquired or the street or sidewalk to be constructed is located."

Sec. 2. G.S. 136-66.3(a) is amended by adding a new sentence, at the end, to read:

"Any such agreement may, with the approval of the county where the land is located, provide for that county to provide funds to the city to acquire rights-of-way necessary for such project or projects."

Sec. 3. G.S. 136-66.3(b) is amended by adding a new sentence, at the end, to read:

"Whenever a county and municipality jointly agree under G.S. 160A-297.1 that the county will fund acquisition of rights-of-way for a State highway system street improvement project, the Department of Transportation may reimburse the county or the municipality in whole or in part for expenditures made by the county or municipality to acquire or fund the acquisition of the right-of-way."

Sec. 4. G.S. 136-66.3(e) is amended by adding a new sentence, at the end, to read:

"Any agreement under subsection (a) of this section or under G.S. 136-66.8 which includes the county as a party may only be amended with respect to the role of the county with the consent of that county."

Sec. 5. G.S. 153A-149(c) is amended by adding the following new subdivision:

"(38) Rights-of-Way. To carry out an agreement with a city whereby the city or the state acquires rights-of-ways for streets as provided by G.S. 153A-245."

Sec. 6. Chapter 153A of the General Statutes is amended by adding the following new section:

"<153A-245. County expenditures on rights-of-way.--Counties may expend funds not otherwise limited as to use by law for the purpose of jointly participating with a city in the acquisition of rights-of-way for street construction or improvement projects which have been approved for county participation under G.S. 160A-297.1, G.S. 136-66.8 and G.S. 136-66.3(a). This section shall not be construed to authorize counties to acquire rights-of-way for State highways by purchase or condemnation."

Sec. 7. G.S. 159-48(c) is amended by adding a new subdivision to read:

"(6) Appropriating funds to carry out an agreement with a city whereby the city or the State acquires rights-of-way for streets pursuant to G.S. 153A-245."

Sec. 8. Chapter 160A of the General Statutes is amended by adding a new section to read:

"<160A-297.1. Joint city-county funding and acquisition.--A city and county may jointly agree that the county will fund acquisition of rights-of-way for a State highway system street improvement project."

Sec. 9. This act is effective upon ratification.



87-LK-24  
S: DEPARTMENT OF TRANSPORTATION  
STUDY COMMITTEE  
ST: FUTURE ROADS ACT-PART III  
PUBLIC

A BILL TO BE ENTITLED

AN ACT TO AFFECT THE TRANSFER OF RIGHTS TO PROPERTY IN RELATION TO  
LAND ACQUISITION AND PLANNING FOR FUTURE HIGHWAYS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 136 of the General Statutes is amended by adding a new Article to read:

"Article 3B.

"Dedication of Right-of-Way with Density or  
Development Rights Transfer.

"<136-66.10. Dedication of right-of-way under local ordinances.--(a) Whenever a tract of land located within the territorial jurisdiction of a city or county's zoning or subdivision control ordinance is proposed for subdivision or for use pursuant to a zoning or building permit, and a portion of it is embraced within a corridor for a street or highway on a plan established and adopted pursuant to G.S. 136-66.2, or for a street or highway that is included in the Department of Transportation's Transportation Improvement Program, a city or county zoning or

subdivision ordinance may provide for the dedication of right-of-way within that corridor pursuant to any applicable legal authority, or:

(1) A city or county may require an applicant for subdivision plat approval or for a special use permit, conditional use permit, or special exception to dedicate for street or highway purpose, the right-of-way within such corridor if the city or county allows the applicant to transfer density credits attributable to the dedicated right-of-way to contiguous land owned by the applicant; provided, however, that no dedication of right-of-way shall be required pursuant to this subdivision unless the board or agency granting final subdivision plat approval or the special use permit, conditional use permit, or special exception shall find, prior to the grant, that the dedication is reasonably related to the traffic generated by the proposed subdivision or use of the remaining land, and does not result in the deprivation of a reasonable use of the original tract.

(2) If a city or county does not require the dedication of right-of-way within such corridor pursuant to subdivision (1) of this subsection or other applicable legal authority, but an applicant for subdivision plat approval or a zoning or building permit elects to dedicate such right-of-way, the city or count may allow the applicant to transfer density credits attributable to the dedicated right-of-way to contiguous land owned by the

applicant or to transfer severable development rights attributable to the dedicated right-of-way to non-contiguous land in designated receiving districts pursuant to G.S. 136-66.11.

(b) When used in this section, the term "density credit" means the potential for the improvement or subdivision of part or all of a parcel of real property, as permitted under the terms of a zoning and/or subdivision ordinance, expressed in dwelling unit equivalents or other measures of development density or intensity or a fraction or multiple of that potential that may be transferred to other portions of the same parcel or to contiguous land in common ownership.

"<136-66.11. Transfer of severable development rights.--(a)  
When used in this section and in G.S. 136-66.10, the term  
"severable development right" means the potential for the improvement or subdivision of part or all of a parcel of real property, as permitted under the terms of a zoning subdivision ordinance expressed in dwelling unit equivalents or other measures of development density or intensity or a fraction or multiple of that potential that may be severed or detached from the parcel from which they are derived and transferred to one or more other parcels located in receiving districts where they may be exercised in conjunction with the use or subdivision of property, in accordance with the provisions of this section.

(b) A city or county may provide in its zoning and subdivision control ordinances for the establishment, transfer, and exercise of severable development right to implement the provisions of G.S. 136-66.10 and this section.

(c) City or county zoning or subdivision control provisions adopted pursuant to this authority shall provide that if rights-of-way area is dedicated and severable development rights are provided pursuant to G.S. 136-66.10(a)(2) and this section, within 10 days after the approval of the final subdivision plat or issuance of the building permit, the city or county shall convey to the dedicating entity a deed for the severable development rights that are attributable to the rights-of-way area dedicated under those subdivisions. If the deed for the severable development rights conveyed by the city or county to the dedicating entity is not recorded in the office of the register of deeds within 15 days of its receipt, the deed shall be null and void.

(d) In order to provide for the transfer of severable development rights pursuant to this section, the governing board shall amend the zoning ordinance to designate severable development rights receiving districts. Such districts may be designated as separate use districts or as districts overlaying other zoning districts. No severable development rights shall be exercised in conjunction with the development or subdivision of any parcel of land that is not located in a receiving district. A city or county may, however, limit the maximum development density

or intensity or the minimum size of lots allowed when severable development rights are exercised in conjunction with the development or subdivision of any eligible site in a receiving district. No plat for a subdivision in conjunction with which severable development rights are exercised shall be recorded by the register of deeds, and no new building, or part thereof, or addition to or enlargement of an existing building, that is part of a development project in conjunction with which severable development rights are exercised shall be occupied, until documents have been recorded in the officer of the register of deeds transferring title from the owner of the severable development rights to the granting city or county and providing for their subsequent extinguishment. Such documents shall also include such other information as the city or county may be ordinance prescribe.

(e) In order to implement the purposes of this section a city or county may by ordinance adopt regulations consistent with the provisions of this section.

(f) A severable development right shall be treated as an interest in real property. Once a deed for severable development rights has been transferred by a city or county to the dedicatory and recorded, the severable development rights shall vest and become freely alienable."

Sec. 2. G.S. 105-275 is amended by adding a new subdivision to read:

"(32) Severable development rights, as defined in G.S. 136-66.11(a), when severed and evidenced by a deed recorded in the office of the register of deeds pursuant to G.S. 136-66.11(c)."

Sec. 3. G.S. 160A-372 is amended by inserting in the first sentence between the word "purposes" and the semicolon that follows it the phrase "including the dedication of rights-of-way pursuant to G.S. 136-66.10 or 136-66.11."

Sec. 4. G.S. 153A-331 is amended by inserting in the first sentence between the word "purposes" and the semicolon that follows it the phrase "including the dedication of rights-of-way pursuant to G.S. 136-66.10 or 136-66.11."

Sec. 5. G.S. 160A-381 is amended by rewriting the first sentence to read:

"For the purpose of promoting health, safety, morals, or the general welfare of the community, any city or town may regulate and restrict the height, number of stories and size of buildings and other structures, the percentage of lots that may be occupied, the size of yards, courts and other open spaces, the density of population, and the location and use of buildings, structures, and

land for trade, industry, residence, or other purposes, and to provide density credits or severable development rights for dedicated rights-of-way pursuant to G.S. 136-66.10 and 136-66.11."

Sec. 6. G.S. 153A-340 is amended by rewriting the first sentence to read:

"For the purpose of promoting health, safety, morals, or the general welfare of the community, any county may regulate and restrict the height, number of stories and size of buildings and other structures, the percentage of lots that may be occupied, the size of yards, courts and other open spaces, the density of population, and the location and use of buildings, structures, and land for trade, industry, residence, or other purposes, and to provide density credits or severable development rights for dedicated rights-of-way pursuant to G.S. 136-66.10 and 136-66.11."

Sec. 7. This act is effective upon ratification.



87-LK-24  
S: DEPARTMENT OF TRANSPORTATION  
STUDY COMMITTEE  
ST: FUTURE ROADS ACT-PART 4.  
PUBLIC

A BILL TO BE ENTITLED  
AN ACT TO PROVIDE FOR DRIVEWAY PERMIT PROCESSES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 136-18 is amended by adding a new subdivision to read:

"(29) To make rules, regulations and ordinances as to the size location, direction of traffic flow, and manner of construction of driveway connections into any U.S. route, N.C. route, or SR route with an average daily traffic volume of 4000 vpd. on the State Highway System and to require the construction and public dedication of medians, acceleration and deceleration lanes, and traffic storage lanes for such driveway connections."

Sec. 2. This act is effective upon ratification.



87-LK-25

S: DEPARTMENT OF TRANSPORTATION  
STUDY COMMITTEE  
ST: FUTURE ROADS ACT-PART 5.  
PUBLIC

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR AN OFFICIAL ROADWAY CORRIDOR MAP AND FOR TAX RELIEF FOR PROPERTY INCLUDED IN ROADWAY CORRIDORS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 136 of the General Statutes is amended by adding a new Article to read:

"Article 2E.

"Roadway Corridor Official Map Act.

" 136-44.50. Roadway corridor official map act.--(a) A roadway corridor official map may be adopted or amended by the governing board of any city within its corporate limits and the extraterritorial jurisdiction of its building permit issuance and subdivision control ordinances or by the Board of Transportation. No roadway corridor official map shall be adopted or amended, nor may any property be regulated under this Article until:

- (1) The governing board of the city or the Department of Transportation in each county affected by; the map, has held a public hearing on the proposed map

or amendment. Notice of the hearing shall be provided:

- a. By publication at least once a week for four successive weeks prior to the hearing in a newspaper having general circulation in the county in which the roadway corridor to be designated is located.
  - b. By two week written notice to the Secretary of Transportation, the Chairman of the Board of County Commissioners, and the Mayor of any city or town through whose corporate or extraterritorial jurisdiction the roadway corridor passes.
  - c. By posting copies of the proposed roadway corridor map or amendment at the courthouse door for at least 21 days prior to the hearing date. The notice required in subdivision a. above shall make reference to this posting.
- (2) A permanent certified copy of the roadway corridor official map or amendment has been filed with the register of deeds. The boundaries may be defined by map or by written description, or a combination thereof. The copy shall measure approximately 20 inches by 12 inches, including no less than one and

one-half inches binding space on the left-hand side.

(b) Roadway corridor official maps and amendments shall be distributed and maintained in the following manner:

- (1) Notwithstanding any other provision of law, the certified copy filed with the register of deeds shall be placed in a book maintained for that purpose and cross-indexed by number of road, street name, or other appropriate description. The register of deeds shall collect a fee of five dollars (\$5.00) for each map sheet or page recorded.
- (2) A copy of the official map and each amendment thereto shall be filed in the office of the city clerk for municipal-adopted maps, or in the office of the district engineer for State-adopted maps.
- (3) A copy of the official map, each amendment thereto and any variance therefrom granted pursuant to G.S. 136-44.52 shall be furnished to the tax supervisor of any county and tax collector of any city affected thereby. The portion of properties embraced within a roadway corridor and any variance granted shall be clearly indicated on all tax maps maintained by the county or city for such period as the designation remains in effect.

(c) No roadway corridor or any portion thereof placed on an official map shall be effective unless:

- (1) The roadway corridor or a portion thereof appears on the Transportation Improvement Plan of the Department of Transportation; or
- (2) The roadway corridor or a portion thereof appears on the street system plan adopted pursuant to G.S. 136-66.2, and the adopting city or town has adopted a capital improvements plan of 10 years or shorter duration which shows the estimated cost of acquisition and construction of the designated roadway corridor and the anticipated financing for that project.

(d) Within one year following the establishment of a roadway corridor official map or amendment, work shall begin on an environmental impact statement or preliminary engineering. The failure to begin work within the one-year period shall constitute an abandonment of the corridor, and the provisions of this Article shall no longer apply to properties or portions of properties embraced within the roadway corridor.

" 136-44.51. Effect of roadway corridor official map.--(a)  
After a roadway corridor official map is filed with the register of deeds, no building permit shall be issued for any building or structure or part thereof located within the roadway corridor, nor

shall approval of a subdivision, as defined in G.S. 153A-335 and G.S. 160A-376, be granted with respect to property within the roadway corridor. The district engineer of the Highway District in which the roadway corridor is located shall be notified within 10 days of all requests for building permits or subdivision approval within the roadway corridor. The provisions of this section shall not apply to valid building permits issued prior to the effective date of this section, or to building permits for buildings and structures which existed prior to the filing of the roadway corridor provided the size of the building or structure is not increased and the type of building code occupancy as set forth in the North Carolina Building Code is not changed.

(b) No application for building permit issuance or subdivision plat approval shall be delayed by the provisions of this section for more than three (3) years from the date of its original submittal.

" 136-44.52. Variance from roadway corridor official map--

(a) The Department of Transportation or the city which initiated the roadway corridor official map shall establish procedures for considering petitions for variances from the requirements of G.S. 136-44.51.

(b) The procedure established by the State shall provide for written notice to the Mayor and Chairman of the Board of County

Commissioners of any affected city or county, and for the hearing to be held in the county where the affected property is located.

(c) Cities may provide for petitions for variances to be heard by the board of adjustment or other boards or commissions which can hear variances authorized by G.S. 160A-388. The procedures for boards of adjustment shall be followed except that no vote greater than a majority shall be required to grant a variance.

(d) A variance may be granted upon a showing that:

- (1) Even with the tax benefits authorized by this Article, no reasonable return may be earned from the land; and
- (2) The requirements of G.S. 136-44.51 result in practical difficulties or unnecessary hardships."

Sec. 2. G.S. 47-30(1) is amended to add before the final period the following language:

"nor to registration of roadway corridor official maps provided in Article 2E of Chapter 136".

Sec. 3. G.S. 136-102.6 is amended by adding a new subsection to read:

"(i1) The Division of Highways and district engineers of the Division of Highways of the Department of Transportation shall issue a certificate of approval for any subdivision affected by a

roadway corridor official map established by the Board of Transportation only if the subdivision conforms to Article 2E of this Chapter or conforms to any variance issued in accordance with that Article."

Sec. 4. Division IV of Chapter 105 of the General Statutes is amended by adding a new section to read:

" 105-163.08A. Credit for local property taxes paid for properties inside future state roadway corridors.--The owner of real property classified for taxation under G.S. 105-277.9 is allowed a credit against the income tax imposed by this Article equal to twenty-five percent (25%) of the amount of property taxes paid, at par by him during the taxable year, on the classified property."

Sec. 5. Chapter 105 of the General Statutes is amended by adding a new section to read:

" 105-277.9. Taxation of property inside certain roadway corridors.--Real property that lies within a roadway corridor marked on an official map filed under Article 2E of Chapter 136 of the General Statutes is designated a special class of property under Article V, Sec. 2(2) of the North Carolina Constitution and is taxable at twenty percent (20%) of the general tax rate levied on real property by the taxing unit in which the property is situated if:

- (1) As of January 1, no building or other structure is located on the property; and
- (2) The property has not been subdivided, as defined in G.S. 153A-335, since it was included in the corridor."

Sec. 6. Chapter 160A of the General Statutes is amended by adding a new section to read:

" 160A-458.3. Designation of roadway corridor official maps.--Any city may establish roadway corridor official maps and may enact and enforce ordinances pursuant to Article 2E of Chapter 136 of the General Statutes."

Sec. 7. This act is effective upon ratification.

87-LK-26

S: DEPARTMENT OF TRANSPORTATION  
STUDY COMMITTEE  
ST: FUTURE ROADS ACT-PART 6.  
PUBLIC

A BILL TO BE ENTITLED

AN ACT TO PROVIDE A PROCEDURE FOR THE WITHDRAWAL OF A RIGHT-OF-WAY  
DEDICATED FOR A FUTURE STREET.

Section 1. G.S. 136-96 is amended by adding the following at  
the end of the last paragraph:

"The provisions of this section shall not apply when the  
public dedication is part of a future street shown on the street  
plan adopted pursuant to G.S. 136-66.2. Upon request, a city  
shall adopt a resolution indicating that the dedication described  
in the proposed declaration of withdrawal is or is not part of the  
street plan adopted under G.S. 136-66.2. This resolution shall be  
attached to the declaration of withdrawal and shall be registered  
in the office of the register of deeds of the county where the  
land is situated."

Sec. 2. This act is effective upon ratification.



87-LK-27  
S: DEPARTMENT OF TRANSPORTATION  
STUDY COMMITTEE  
ST: FUTURE ROADS ACT-PART 7.  
PUBLIC

A BILL TO BE ENTITLED  
AN ACT TO PROVIDE FOR THE RIGHT OF CONDEMNATION FOR FUTURE ROADS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 40A-3(b)(1) is amended by adding the following sentence:

"The authority contained in this subsection is applicable to the condemnation of all future rights-of-way for streets, sidewalks, and highways which are part of the coordinated street system required in G.S. 136-66.2."

Sec. 2. This act is effective upon ratification.



87-LK-28

S: DEPARTMENT OF TRANSPORTATION  
STUDY COMMITTEE  
ST: FUTURE ROADS ACT-PART 8.  
PUBLIC

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR LOCAL ROADWAY PROTECTION AND CONSTRUCTION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 160A-306(a) is amended by inserting immediately after the word "structures" in line 5 the words "or improvements"; and is further amended in line 6 by deleting the words "of the street" and substituting "of an existing or proposed street".

Sec. 2. The second sentence of the last paragraph of G.S. 160A-306(c) is amended by deleting the words "a board established" and substituting "any authorized body".

Sec. 3. Chapter 153A of the General Statutes is amended by adding a new section to read:

" 153A-326. Building setback lines.--Counties shall have the same authority to regulate building setback lines as is provided for cities in G.S. 160A-306."

Sec. 4. G.S. 160A-307 is amended by:

- (1) Inserting immediately after the word "location," the words "direction of traffic flow,;" and
- (2) Adding after the first sentence:

"The ordinance may require the construction or reimbursement of the costs of construction and public dedication of medians, acceleration and deceleration lanes, and traffic storage lanes for driveway connections into any street or alley if: (1) the need for those improvements is reasonably attributable to the traffic using the driveway; and (2) the improvements serve the traffic of the driveway. No street or alley under the control of the Department of Transportation may be improved without the consent of the Department of Transportation. However, if there is a conflict between the written driveway regulations of the Department of Transportation and the related driveway improvements required by the city, the more stringent requirement shall apply."

Sec. 5. G.S. 153A-331 is amended to add a new second paragraph to read:

"The ordinance may provide that in lieu of required street construction, a developer may be required to provide funds that the county may use for the development of roads to serve the occupants, residents, or invitees of the subdivision or development and these funds may be used pursuant to G.S. 136-66.3

for roads which serve more than one subdivision or development within the area. All funds received by the county pursuant to this paragraph shall be transferred to the municipality and shall be used only for development of roads, including design, land acquisition, and construction undertaken by the municipality all in accordance with an agreement. Any formula adopted to determine the amount of funds the developer is to pay in lieu of required street construction shall be based on the trips generated from the subdivision or development. The ordinance may require a combination of partial payment of funds and partial dedication of constructed streets when the governing body of the county determines that a combination is in the best interests of the citizens of the area to be served."

Sec. 6. G.S. 160A-372 is amended by adding a new paragraph at the end to read:

"The ordinance may provide that in lieu of required street construction, a developer may be required to provide funds that the city may use for the construction of roads to serve the occupants, residents, or invitees of the subdivision or development and these funds may be used for roads which serve more than one subdivision or development within the area. All funds received by the city pursuant to this paragraph shall be used only for development of roads, including design, land acquisition, and construction. However, a city may undertake

these activities in conjunction with the Department of Transportation under an agreement between the city and the Department of Transportation. Any formula adopted to determine the amount of funds the developer is to pay in lieu of required street construction shall be based on the trips generated from the subdivision or development. The ordinance may require a combination of partial payment of funds and partial dedication of constructed streets when the governing body of the city determines that a combination is in the best interests of the citizens of the area to be served."

Sec. 7. This act is effective upon ratification.

87-LK-29

S: DEPARTMENT OF TRANSPORTATION  
STUDY COMMITTEE  
ST: D.O.T.-PRIVATE CONTRACT PARTICIP'N.  
PUBLIC

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE DEPARTMENT OF TRANSPORTATION TO  
PARTICIPATE IN ENGINEERING AND CONSTRUCTION CONTRACTS WITH PRIVATE  
DEVELOPERS FOR PROPOSED STATE HIGHWAYS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 136 of the General Statutes is amended by adding a new section to read:

" 136-28.5. Private contract participation by the Department of Transportation.--(a) The Department of Transportation may participate in private engineering and construction contracts for state highways.

(b) In order to qualify for State participation, the project must be:

(1) The construction of a street or highway on the Transportation Improvement Plan adopted by the Department of Transportation; or

(2) The construction of a street or highway on a mutually adopted thoroughfare plan that is designated a Department of Transportation responsibility.

(c) Only those projects in which the developer furnishes the right-of-way without cost to the Department of Transportation are eligible.

(d) The Department's participation shall be limited to fifty percent (50%) of the amount of any engineering contract and/or any construction contract let by the developer for the project.

(e) Participation in the contracts shall be limited to standard design costs determined by the Department.

(f) Plans for the project must meet Department of Transportation standards and shall be approved by the Department of Transportation.

(g) Projects shall be constructed in accordance with the plans and specifications approved by the Department of Transportation."

Sec. 2. This act shall become effective July 1, 1987.

87-LK-19.1

S: TRANSPORTATION COMMITTEE

A JOINT RESOLUTION URGING CONGRESS TO TAKE IMMEDIATE ACTION ON HIGHWAY AND TRANSIT AUTHORIZATIONS.

Whereas, continuation of the federal-aid highway and public transportation programs is essential to the safety and mobility of all citizens of North Carolina, and to the growth of the State's economy; and

Whereas, authorization for the federal-aid highway program and a portion of the public transportation program expired on September 30, 1986; and

Whereas, the federal-aid highway program and the public transportation discretionary grant program are being severely disrupted by the failure of Congress to timely enact a new surface transportation authorization bill to replace the Surface Transportation Assistance Act of 1982; and

Whereas, the result of congressional inaction is that needed federal-aid highway construction projects in North Carolina will progressively decrease in number, ending completely in April, 1987; and

Whereas, the safety and traffic problems caused by the lack of a new Federal-aid Highway Program because of Congressional inaction should not be imposed on North Carolina at a time when

sufficient dedicated funds are actually available to solve some of those problems; and

Whereas, the lack of Congressional action, if not corrected in early 1987, will result in extensive curtailment of highway and transit contracting, causing severe economic hardship to those employed in North Carolina's highway construction industry; and

Whereas, such extensive curtailment in highway and transit programs will also have longer term negative effects on vitally-needed public and private economic development initiatives which depend on such transportation programs; Now, therefore,

BE IT RESOLVED BY THE SENATE, THE HOUSE OF REPRESENTATIVES CONCURRING:

Section 1. The North Carolina General Assembly requests that each member of the North Carolina delegation to the United States Senate and United States House of Representatives serving in the 100th Congress is urged to work diligently with the transportation leadership of the United States House of Representatives, the United States Senate, and the Administration to:

- (1) Secure passage by both houses of reauthorization bills and a companion bill extending the user fees supporting the Highway Trust Fund; and
- (2) Quickly resolve any conflicts between the reauthorization proposals passed by the two bodies in

the 99th Congress to produce a bill that is in the best interests of the users of North Carolina's transportation system, which will utilize to the greatest extent possible the revenues to and the highway and transit balances in the Highway Trust Fund; and

(3) Secure passage of a bill by both houses that in all fairness to donor states like North Carolina provides for a true return of at least 85 percent of the individual state's payments into the Highway Trust Fund.

Sec. 2. The Secretary of State shall send a certified copy of this resolution to each member of the United States Senate and the House of Representatives representing North Carolina, to the Secretary of the United States Senate and Clerk of the United States House of Representatives, and to the President of the United States.

Sec. 3. This resolution is effective upon ratification.



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## SESSION 19 <sub>87</sub>

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INTRODUCED BY:

Short Title: Motor Fuel Tax

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Referred to:

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- 1 A BILL TO BE ENTITLED AN ACT TO PROVIDE FOR AN INCREASE IN THE STATE MOTOR
- 2 FUEL TAX CONTINGENT UPON A REDUCTION OF THE PRESENT FEDERAL GAS TAX.
- 3 The General Assembly of North Carolina enacts:
- 4       Section 1. Chapter 105 of the North Carolina General Statutes is hereby
- 5 amended by inserting a new article under subchapter V to be numbered and
- 6 captioned "Article 36C, Additional Motor Fuel Taxes" and to read as follows:
- 7       "G. S. 105-449.57 - (a) There is hereby levied an excise tax on motor
- 8 fuels in addition to any other taxes provided for by State law under
- 9 Article 36, 36A, and 36B of Chapter 105 of the North Carolina General
- 10 Statutes. The tax levied hereunder shall be the same amount of tax per
- 11 gallon by which the federal tax per gallon existing on January 1, 1987
- 12 on motor fuels under the provisions of 26 USC 4081 and 26 USC 4041(a)
- 13 is diminished or discontinued. This section shall apply to any and
- 14 all decreases of federal taxes imposed on motor fuels on January 1,
- 15 1987, by the federal laws referred to.
- 16       "(b) The purpose of subsection (a) is to provide an additional
- 17 State tax on motor fuel up to the amount of federal tax imposed on
- 18 January 1, 1986 on motor fuel and which may be rescinded or repealed so
- 19 as to maintain the combined federal and State motor fuel taxes imposed
- 20 on motor fuels on January 1, 1987.
- 21       "(c) The tax imposed by subsection (a) shall increase those taxes
- 22 now imposed by the provisions of G. S. 105-434 and G. S. 105-435. The
- 23 provisions of Article 36 of Chapter 105 of the General Statutes for
- 24

1 collections, reports, and penalties shall also be applicable to such  
2 additional taxes levied pursuant to this subsection. The refund and  
3 rebate provisions of G.S. 105-446, G.S. 105-446.1, G.S. 105-446.3 and  
4 G.S. 105-446.5 shall be increased by the amount of the increase in the  
5 tax. The exemptions for gasoline used in public transportation as  
6 provided in G.S. 105-449 shall also apply to the additional tax levied  
7 pursuant to this subsection. All of the remaining provisions of  
8 Article 36 shall also apply to the tax increase of G.S. 105-434 and  
9 G.S. 105-435 imposed by this subsection.

10 "(d) The tax imposed by subsection (a) shall increase the special  
11 fuel tax imposed under the provisions of G.S. 105-449.16 and G.S.  
12 105-449.19. The purpose of this additional tax levy shall be the same  
13 as the existing levy under G.S. 105-449.16. The exemption, rebate, and  
14 refund provisions of G.S. 105-449.17 and G.S. 105-449.24 shall also  
15 apply to the additional tax imposed by this section. The refund  
16 provisions of G.S. 105-449.30 and G.S. 105-449.31 shall be increased by  
17 the amount of additional tax imposed by subsection (a). All of the  
18 remaining provisions of Article 36A shall apply to the tax increase  
19 under G.S. 105-449.16 levied pursuant to this subsection.

20 "(e) The tax imposed on fuel used by carriers purchased outside  
21 the State pursuant to G.S. 105-449.38 shall be increased by the amount  
22 of the additional tax levied pursuant to subsection (a). The credit as  
23 provided under G.S. 105-449.39 shall also be increased by the amount of  
24 additional tax levied pursuant to subsection (a). All other provisions  
25 of Article 36B shall apply to the additional tax levied pursuant to  
26 this subsection."

27 "(f) At such time as a tax increase may be imposed pursuant to  
28 subsection (a) above, every distributor of motor fuel or special fuel,

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1 both at wholesale and at retail, who shall have on hand or in his  
2 possession motor fuels or special fuels on which the fourteen and three  
3 quarters cents (14 3/4¢) tax has been paid or accrued shall take a true  
4 inventory of all such motor fuel or special fuel in his possession as  
5 of 12:01 a.m. on the day that the tax imposed by subsection (a) shall  
6 take effect, and shall within 20 days thereafter report to the  
7 Secretary of Revenue the amount of such fuel and shall remit to the  
8 Secretary an additional tax equal to the amount of the tax increase  
9 imposed by subsection (a) for each gallon of gas in the distributor's  
10 possession at the inventory time.

11 Sec. 2. The funds derived from the tax levied by this Act shall be  
12 paid into the State Highway Fund and used exclusively for highway purposes.

13 Sec. 3. This Act is effective upon ratification, provided that the  
14 provisions of G. S. 105-449.57 shall be contingent upon a decrease in the  
15 federal tax per gallon of diesel fuel tax imposed pursuant to the provisions  
16 of 26 USC 4041(a) and gasoline taxes pursuant to the provisions of 26 USC 4081,  
17 which was in effect on January 1, 1987. G. S. 105-449.57 shall be effective  
18 the first calendar day the federal tax decrease shall be effective.  
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HECKMAN  
BINDERY INC.

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N. MANCHESTER,

